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3 UNITED STATES DISTRICT COURT  
4 DISTRICT OF NEVADA

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6 KENNETH A. FOX,

Case No. 3:19-cv-00259-MMD-WGC

7 Plaintiff,

DISMISSAL ORDER

8 v.

9 WASHOE COUNTY, *et al.*,

Defendants.

10  
11 This action began with a *pro se* civil rights complaint filed under 42 U.S.C. § 1983  
12 by a former state prisoner. On February 26, 2020, this Court issued an order directing  
13 Plaintiff to file a non-prisoner application to proceed *in forma pauperis* with this Court  
14 within 30 days. (ECF No. 9.) The 30-day period has now expired, and Plaintiff has not  
15 filed a non-prisoner application to proceed *in forma pauperis*, or otherwise responded to  
16 the Court's order.

17 District courts have the inherent power to control their dockets and “[i]n the  
18 exercise of that power, they may impose sanctions including, where appropriate . . .  
19 dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831  
20 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure  
21 to prosecute an action, failure to obey a court order, or failure to comply with local rules.  
22 See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (affirming dismissal for  
23 noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir.  
24 1992) (affirming dismissal for failure to comply with an order requiring amendment of  
25 complaint); *Carey v. King*, 856 F.2d 1439, 1440–41 (9th Cir. 1988) (affirming dismissal  
26 for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of  
27 address); *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming  
28 dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,

1 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with  
2 local rules).

3 In determining whether to dismiss an action for lack of prosecution, failure to obey  
4 a court order, or failure to comply with local rules, the court must consider several factors:  
5 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to  
6 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring  
7 disposition of cases on their merits; and (5) the availability of less drastic alternatives.  
8 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at  
9 130; *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

10 Here, the Court finds that the first two factors weigh in favor of dismissal. The third  
11 factor, risk of prejudice to Defendants, also weighs in favor of dismissal since a  
12 presumption of injury arises from the occurrence of unreasonable delay in filing a pleading  
13 ordered by the court or prosecuting an action. See *Anderson v. Air West*, 542 F.2d 522,  
14 524 (9th Cir. 1976). The fourth factor, public policy favoring disposition of cases on their  
15 merits, is greatly outweighed by the factors in favor of dismissal discussed herein. Finally,  
16 a court's warning to a party that his failure to obey the court's order will result in dismissal  
17 satisfies the "consideration of alternatives" requirement. *Ferdik*, 963 F.2d at 1262;  
18 *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424. The Court's order requiring  
19 Plaintiff to file a non-prisoner application to proceed *in forma pauperis* with the Court  
20 within 30 days expressly stated: "IT IS FURTHER ORDERED that if Plaintiff fails to timely  
21 comply with this order, dismissal of this action may result." (ECF No. 9 at 1.) Thus, Plaintiff  
22 had adequate warning that dismissal would result from his noncompliance with the  
23 Court's order to file a non-prisoner application to proceed *in forma pauperis* within 30  
24 days.

25 It is therefore ordered that this action is dismissed without prejudice based on  
26 Plaintiff's failure to file a non-prisoner application to proceed *in forma pauperis* in  
27 compliance with this Court's February 26, 2020 order.

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1 It is further ordered that the Clerk of the Court will enter judgment accordingly.

2 DATED THIS 9<sup>th</sup> day of April 2020.

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5 MIRANDA M. DU  
6 CHIEF UNITED STATES DISTRICT JUDGE  
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